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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

No. 18-03197-11

GIGA WATT INC.,

Debtor in Possession.

**DEBTOR'S MOTION AND
MEMORANDUM FOR ORDER
AUTHORIZING USE OF
POSSIBLE CASH COLLATERAL**

MOTION

Debtor-in-Possession, Giga Watt, Inc. (the "Debtor"), by and through its attorneys, Winston & Cashatt, Lawyers, by Timothy Fischer, hereby moves that the court enter an Order Authorizing Use of Possible Cash Collateral, or a determination that none exists, to pay necessary expenses to prevent immediate and irreparable harm.

GROUNDS

The grounds for this motion are that the use of cash collateral is necessary to preserve property of the estate, and avoid immediate and irreparable harm.

MOTION FOR ORDER AUTHORIZING USE OF CASH COLLATERAL- 1

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BASIS

The basis for this Motion is 11 U.S.C. § 363, the Declaration of Timothy R. Fischer, the Declaration of Heather Mulhall, and all papers on file herein.

ARGUMENT

I. Background

On November 19, 2018, (the “Petition Date”), the Debtor commenced this case by filing a voluntary petition under Chapter 11 of Title 11, United States Code (the “Code”). [Doc. No. 1]. The Debtor operates a turnkey hosting service and is a full-service specialized computer power provider for the Cryptocurrency industry, as well as offering Initial Coin Offerings. To fund current operations, and thereby avoid irreparable harm to the estate, the Debtor seeks authority to use possible cash collateral in its possession, pursuant to 11 U.S.C. § 363, FRBP 4001(b) and LBR 4001-2. The use of the cash collateral, if it exists, is necessary to avoid immediate and irreparable harm.

II. Possible Secured Collateral at Issue

The Debtor seeks approval of use the following possible collateral:

1. Cash in accounts

III. Possible Liens against Cash Collateral

As evidenced by the Declaration of Timothy R. Fischer, an examination of the Debtor's debts and creditors, the Debtor's accounts are possibly subject to the secured interests of Giga Plex, LLC ("Giga Plex").

1 The UCC Financing Statements (three in total) filed by Giga Plex on
2 November 6, 2018, encumber the following collateral:
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4 All of debtor's equipment, including gigapods, electrical infrastructure,
5 servers, trade fixtures, furnishings, accounts and all other property of
6 debtor located at 9221 Tyndall Road, Moses Lake, WA 98837
7

8 All of debtor's equipment, including gigapods, electrical infrastructure,
9 servers, trade fixtures, furnishings, accounts and all other property of
10 debtor located at 7890 Randolph Road, Moses Lake, WA 98837
11

12 All of debtor's equipment, including gigapods, electrical infrastructure,
13 servers, trade fixtures, furnishings, accounts and all other property of
14 debtor located at 7906 Randolph Road, Moses Lake, WA 98837
15

16 A 4th UCC filing by creditor, MLDC 1, LLC, was filed on November 21,
17 2019, and was unperfected at the time of the petition filing.
18

19 From an examination of the collateral listed on the UCC Financing
20 Statements, possible cash collateral would include accounts located at the
21 described addresses. The Debtor is still trying to determine which accounts, if
22 any, are located at those addresses; the Debtor does have accounts *not* at the listed
23 addresses.

24 To the extent that Giga Plex argues instead that the security interest
25 includes accounts not listed at the named addresses, the Debtor would set forth
26 that the other collateral greatly outweighs the cash collateral that needs to be used.
27 In preparing the soon to be filed schedules, the Debtor has non-cash collateral
28

1 assets that may fit the UCC filings in the estimated amount of \$30,000,000.00;
2 \$15,000,000.00 per location at the Randolph Road sites.
3

4 **IV. Need for Cash Collateral**

5 As set forth by Heather Mulhall's declaration, the use of possible cash
6 collateral is necessary to avoid immediate and irreparable harm to the estate, and
7 to maintain ongoing operations, including paying necessary utility expenses.
8

9 **VI. Terms and Conditions Sought**

10 1. To the extent that it is determined that Cash Collateral actually
11 exists, the Debtor proposes to use actual Cash Collateral to pay necessary
12 ongoing expenses.

13 2. On information and belief, Giga Plex may not be fully secured in all
14 cash collateral. Nevertheless, the Debtor will only pay those necessary expenses
15 to avoid immediate and irreparable harm.

16 3. Giga Plex consent has not been sought prior to the filing of this
17 motion, but the Debtor will attempt to reach an agreeable solution with the
18 creditor.

19 4. Some possible cash collateral is replenished on an ongoing basis.
20 The current estimated value of said collateral is set forth in the Declaration of
21 Heather Mulhall.
22

5. The Debtor does not believe that any extra Adequate Protection Lien is necessary, as the creditor is secured in other assets in the estimated value of at least \$30,000,000.00.

CONCLUSION

Debtor respectfully requests that the Court authorize the use of Cash Collateral as set forth herein, to the extent that there is any valid lien on it.

DATED this 5th day of December, 2018.

WINSTON & CASHATT, LAWYERS

/s/ Timothy R. Fischer

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MOTION FOR ORDER AUTHORIZING USE OF CASH COLLATERAL-5

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